

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE AUGUST 28, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 478

Introduced by Assembly Members Gomez and Rendon
(Coauthor: Assembly Member Bonta)
(Coauthor: Senator Galgiani)

February 19, 2013

An act to amend Section 22871.8 of, and to add Sections 12440.3, 12440.4, and 12440.5 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 478, as amended, Gomez. State employees: memorandum of understanding.

Existing law provides that a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions of memoranda of understanding entered into between the state employer and California Correctional Peace Officer Association, State Bargaining Unit 6; California State Law Enforcement Association, State Bargaining Unit 7; *Professional Engineers in California Government*, State Bargaining Unit 9; International Union of Operating Engineers, State Bargaining Unit 12; Union of American Physicians and Dentists, State Bargaining Unit 16;

California Association of Psychiatric Technicians, State Bargaining Unit 18; and American Federation of State, County, and Municipal Employees (AFSCME), and State Bargaining Unit 19, that require the expenditure of funds, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.

The bill would provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for those provisions are specifically appropriated by the Legislature, and would require the state employer and the affected employee organization to meet and confer to renegotiate the affected provisions if funds for those provisions are not specifically appropriated by the Legislature.

The bill would appropriate funds for expenditure in the 2013–14 fiscal year in augmentation of, and for the purpose of, state employee compensation, as provided in the Budget Act of 2013, in accordance with a specified schedule, from the General Fund, unallocated special funds, and other unallocated nongovernmental cost funds. The bill would also appropriate to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, in the amount necessary for the payment of compensation and employee benefits to state employees for work performed between July 1 and the enactment of the Budget Act in the 2014–15, 2015–16, and 2016–17 fiscal years if the Budget Act is not enacted on or before July 1 in those fiscal years.

Existing law provides that the employer contribution for each employee in State Bargaining Units 16 and 19 shall be an amount equal to 85% of the weighted average of the basic health benefit plan premium for an active state civil service employee, as specified.

This bill would instead provide that, beginning January 1, 2007, the employer contribution for each employee shall be an amount equal to 80% of the weighted average of the basic health benefit plan premium for an active state civil service employee enrolled for self alone, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that the
2 purpose of this act is to approve an agreement pursuant to Section
3 3517.5 of the Government Code entered into by the state employer
4 and State Bargaining Units 6, 7, 12, 16, 18, and 19.

5 SEC. 2. The provisions of the memorandum of understanding
6 prepared pursuant to Section 3517.5 of the Government Code and
7 entered into by the state employer and California Correctional
8 Peace Officer Association, State Bargaining Unit 6, on August 20,
9 2013; California State Law Enforcement Association, State
10 Bargaining Unit 7, on August 25, 2013; *Professional Engineers*
11 *in California Government*, State Bargaining Unit 9, on August 30,
12 2013, International Union of Operating Engineers, State Bargaining
13 Unit 12, on August 9, 2013; Union of American Physicians and
14 Dentists, State Bargaining Unit 16, on July 18, 2013; California
15 Association of Psychiatric Technicians, State Bargaining Unit 18,
16 on July 9, 2013; and American Federation of State, County, and
17 Municipal Employees (AFSCME), State Bargaining Unit 19, on
18 August 7, 2013, that require the expenditure of funds are hereby
19 approved for the purposes of subdivision (b) of Section 3517.6 of
20 the Government Code.

21 SEC. 3. The provisions of the memoranda of understanding
22 approved in Section 2 of this act that are scheduled to take effect
23 on or after July 1, 2013, and that require the expenditure of funds,
24 shall not take effect unless funds for those provisions are
25 specifically appropriated by the Legislature. If the Legislature does
26 not approve or fully fund any provision of a memorandum of
27 understanding approved in Section 2 of this act that requires the
28 expenditure of funds, either party to the memorandum may reopen
29 negotiations on all or part of the memorandum of understanding.

30 SEC. 4. Notwithstanding Section 3517.6 of the Government
31 Code, the provisions of the memorandum of understanding
32 approved in Section 2 that require the expenditure of funds shall
33 become effective even if the provisions of the memorandum of
34 understanding are approved by the Legislature in legislation other
35 than the annual Budget Act.

36 SEC. 5. (a) The sum of fourteen million eight hundred
37 forty-nine thousand dollars (\$14,849,000) is hereby appropriated
38 for State Bargaining Unit 6 for expenditure in the 2013–14 fiscal

1 year in augmentation of, and for the purpose of, state employee
2 compensation, as provided in items 9800-001-0001,
3 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget
4 Act of 2013 (Chapter 20 of the Statutes of 2013) in accordance
5 with the following schedule:

6 (1) Fourteen million seven hundred forty-six thousand dollars
7 (\$14,746,000) from the General Fund in augmentation of Item
8 9800-001-0001.

9 (2) Sixty-nine thousand dollars (\$69,000) from unallocated
10 special funds in augmentation of Item 9800-001-0494.

11 (3) Thirty-four thousand dollars (\$34,000) from other
12 unallocated nongovernmental cost funds in augmentation of Item
13 9800-001-0988.

14 (b) The sum of one million eighty-four thousand dollars
15 (\$1,084,000) is hereby appropriated for State Bargaining Unit 7
16 for expenditure in the 2013–14 fiscal year in augmentation of, and
17 for the purpose of, state employee compensation, as provided in
18 items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of
19 Section 2.0 of the Budget Act of 2013 (Chapter 20 of the Statutes
20 of 2013) in accordance with the following schedule:

21 (1) Three hundred twenty thousand dollars (\$320,000) from the
22 General Fund in augmentation of Item 9800-001-0001.

23 (2) Five hundred twelve thousand dollars (\$512,000) from
24 unallocated special funds in augmentation of Item 9800-001-0494.

25 (3) Two hundred fifty-two thousand dollars (\$252,000) from
26 other unallocated nongovernmental cost funds in augmentation of
27 item 9800-001-0988.

28 (c) The sum of one million five hundred ninety-seven thousand
29 dollars (\$1,597,000) is hereby appropriated for State Bargaining
30 Unit 12 for expenditure in the 2013–14 fiscal year in augmentation
31 of, and for the purpose of, state employee compensation as
32 provided in items 9800-001-0001, 9800-001-0494, and
33 9800-001-0988 of Section 2.0 of the Budget Act of 2013 (Chapter
34 20 of the Statutes of 2013) in accordance with the following
35 schedule:

36 (1) Five hundred sixteen thousand dollars (\$516,000) from the
37 General Fund in augmentation of Item 9800-001-0001.

38 (2) Seven hundred twenty-four thousand dollars (\$724,000)
39 from unallocated special funds in augmentation of Item
40 9800-001-0494.

1 (3) Three hundred fifty-seven thousand dollars (\$357,000) from
2 other unallocated nongovernmental cost funds in augmentation of
3 Item 9800-001-0988.

4 (d) The sum of one million five thousand dollars (\$1,005,000)
5 is hereby appropriated for State Bargaining Unit 18 for expenditure
6 in the 2013–14 fiscal year in augmentation of, and for the purpose
7 of, state employee compensation as provided in items
8 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section
9 2.0 of the Budget Act of 2013 (Chapter 20 of the Statutes of 2013)
10 in accordance with the following schedule:

11 (1) Nine hundred twenty-four thousand dollars (\$924,000) from
12 the General Fund in augmentation of Item 9800-001-0001.

13 (2) Fifty-four thousand (\$54,000) from unallocated special funds
14 in augmentation of Item 9800-001-0494.

15 (3) Twenty-seven thousand dollars (\$27,000) from other
16 unallocated nongovernmental cost funds in augmentation of Item
17 9800-001-0988.

18 (e) The sum of three thousand dollars (\$3,000) is hereby
19 appropriated for State Bargaining Unit 19 for expenditure in the
20 2013–14 fiscal year in augmentation of, and for the purpose of,
21 state employee compensation as provided in items 9800-001-0001,
22 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget
23 Act of 2013, (Chapter 20 of the Statutes of 2013) in accordance
24 with the following schedule:

25 (1) Three thousand dollars (\$3,000) from the General Fund in
26 augmentation of Item 9800-001-0001.

27 (2) Zero dollars (\$0) from unallocated special funds in
28 augmentation of Item 9800-001-0494.

29 (3) Zero dollars (\$0) from other unallocated nongovernmental
30 cost funds in augmentation of Item 9800-001-0988.

31 SEC. 6. Section 12440.3 is added to the Government Code, to
32 read:

33 12440.3. (a) Notwithstanding Section 13340, for the 2014–15
34 fiscal year, if the Budget Act of 2014 is not enacted on or before
35 July 1, 2014, for the memoranda of understanding entered into
36 between the state employer and State Bargaining Units 7, 16, 18,
37 and 19 (effective July 1, 2013, to July 1, 2016, inclusive), *State*
38 *Bargaining Unit 9 (effective July 2, 2013, to July 1, 2015,*
39 *inclusive)*, and State Bargaining Units 6 and 12 (effective July 1,
40 2013, to July 1, 2015, inclusive), there is hereby continuously

1 appropriated to the Controller from the General Fund, unallocated
2 special funds, including, but not limited to, federal funds and
3 unallocated nongovernmental cost funds, and any other fund from
4 which state employees are compensated, the amount necessary for
5 the payment of compensation and employee benefits to state
6 employees covered by the above memoranda of understanding
7 until the Budget Act of 2014 is enacted. The Controller may expend
8 an amount no greater than necessary to enable the Controller to
9 compensate state employees covered by the above memoranda of
10 understanding for work performed between July 1, 2014, of the
11 2014–15 fiscal year, and the enactment of the Budget Act of 2014.

12 (b) If the memoranda of understanding entered into between
13 the state employer and State Bargaining Units 7, 16, 18, and 19
14 (effective July 1, 2013, to July 1, 2016, inclusive), *State Bargaining*
15 *Unit 9 (effective July 2, 2013, to July 1, 2015, inclusive)*, and State
16 Bargaining Units 6 and 12 (effective July 1, 2013, to July 1, 2015,
17 inclusive) are in effect and approved by the Legislature, the
18 compensation and contribution for employee benefits for state
19 employees represented by these bargaining units shall be at a rate
20 consistent with the applicable memorandum of understanding
21 referenced above.

22 (c) Expenditures related to any warrant drawn pursuant to
23 subdivision (a) are not augmentations to the expenditure authority
24 of a department. Upon the enactment of the Budget Act of 2014,
25 these expenditures shall be subsumed by the expenditure authority
26 approved in the Budget Act of 2014 for each affected department.

27 (d) This section shall only apply to an employee covered by the
28 terms of State Bargaining Units 7, 16, 18, and 19 (effective July
29 1, 2013, to July 1, 2016, inclusive), *State Bargaining Unit 9*
30 *(effective July 2, 2013, to July 1, 2015, inclusive)*, and State
31 Bargaining Units 6 and 12 (effective July 1, 2013, to July 1, 2015,
32 inclusive) memoranda of understanding. Notwithstanding Section
33 3517.8, this section shall not apply after the term of the memoranda
34 of understanding have expired. For purposes of this section, the
35 memoranda of understanding for State Bargaining Units 7, 16, 18,
36 and 19 expire on July 1, 2016, and the memoranda of understanding
37 for State Bargaining Units 6, 9, and 12 expire on July 1, 2015.

38 SEC. 7. Section 12440.4 is added to the Government Code, to
39 read:

12440.4. (a) Notwithstanding Section 13340, for the 2015–16 fiscal year, if the Budget Act of 2015 is not enacted on or before July 1, 2015, for the memoranda of understanding entered into between the state employer and State Bargaining Units 7, 16, 18, and 19 (effective July 1, 2013, to July 1, 2016, inclusive), *State Bargaining Unit 9 (effective July 2, 2013, to July 1, 2015, inclusive)*, and State Bargaining Units 6 and 12 (effective July 1, 2013, to July 1, 2015, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the Budget Act of 2015 is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2015, of the 2015–16 fiscal year, and the enactment of the Budget Act of 2015.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Units 7, 16, 18, and 19 (effective July 1, 2013, to July 1, 2016, inclusive), *State Bargaining Unit 9 (effective July 2, 2013, to July 1, 2015, inclusive)*, and State Bargaining Units 6 and 12 (effective July 1, 2013, to July 1, 2015, inclusive) are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the Budget Act of 2015, these expenditures shall be subsumed by the expenditure authority approved in the Budget Act of 2015 for each affected department.

(d) This section shall only apply to an employee covered by the terms of State Bargaining Units 7, 16, 18, and 19 (effective July 1, 2013, to July 1, 2016, inclusive), *State Bargaining Unit 9 (effective July 2, 2013, to July 1, 2015, inclusive)*, and State Bargaining Units 6 and 12 (effective July 1, 2013, to July 1, 2016, inclusive) memoranda of understanding. Notwithstanding Section

1 3517.8, this section shall not apply after the term of the memoranda
2 of understanding have applied. For purposes of this section, the
3 memoranda of understanding have expired. For purposes of this
4 section, the memoranda of understanding for State Bargaining
5 Units 7, 16, 18, and 19 expire on July 1, 2016, and the memoranda
6 of understanding for State Bargaining Units 6, 9, and 12 expire on
7 July 1, 2015.

8 SEC. 8. Section 12440.5 is added to the Government Code, to
9 read:

10 12440.5. (a) Notwithstanding Section 13340, for the 2016–17
11 fiscal year, if the Budget Act of 2016 is not enacted on or before
12 July 1, 2016, for the memoranda of understanding entered into
13 between the state employer and State Bargaining Units 7, 16, 18,
14 and 19 (effective July 1, 2013, to July 1, 2016, inclusive), there is
15 hereby continuously appropriated to the Controller from the
16 General Fund, unallocated special funds, including, but not limited
17 to, federal funds and unallocated nongovernmental cost funds, and
18 any other fund from which state employees are compensated, the
19 amount necessary for the payment of compensation and employee
20 benefits to state employees covered by the above memoranda of
21 understanding until the Budget Act of 2016 is enacted. The
22 Controller may expend an amount no greater than necessary to
23 enable the Controller to compensate state employees covered by
24 the above memoranda of understanding for work performed
25 between July 1, 2016, of the 2016–17 fiscal year and the enactment
26 of the Budget Act of 2016.

27 (b) If the memoranda of understanding entered into between
28 the state employer and State Bargaining Units 7, 16, 18, and 19
29 (effective July 1, 2013, to July 1, 2016, inclusive) are in effect and
30 approved by the Legislature, the compensation and contribution
31 for employee benefits for state employees represented by these
32 bargaining units shall be at a rate consistent with the applicable
33 memorandum of understanding referenced above.

34 (c) Expenditures related to any warrant drawn pursuant to
35 subdivision (a) are not augmentations to the expenditure authority
36 of a department. Upon the enactment of the Budget Act of 2016,
37 these expenditures shall be subsumed by the expenditure authority
38 approved in the Budget Act of 2016 for each affected department.

39 (d) This section shall only apply to an employee covered by the
40 terms of the State Bargaining Units 7, 16, 18, and 19 (effective

1 July 1, 2013, to July 1, 2016, inclusive) memoranda of
2 understanding. Notwithstanding Section 3517.8, this section shall
3 not apply after the term of the memoranda of understanding have
4 expired. For purposes of this section, the memoranda of
5 understanding for State Bargaining Units 7, 16, 18, and 19 expire
6 on July 1, 2016.

7 SEC. 9. Section 22871.8 of the Government Code is amended
8 to read:

9 22871.8. (a) Notwithstanding Section 22871, subdivision (b)
10 of Section 22871.5, or any other provision of this article, the
11 employer contribution with respect to employees in State
12 Bargaining Units 16 and 19 shall be as described in subdivision
13 (b).

14 (b) (1) From January 1, 2004, to December 31, 2005, inclusive,
15 the employer contribution for each employee shall be an amount
16 equal to 80 percent of the weighted average of the basic health
17 benefit plan premiums for an active state civil service employee
18 enrolled for self alone, during the benefit year to which the formula
19 is applied, for the four basic health benefit plans that had the largest
20 active state civil service enrollment, excluding family members,
21 during the previous benefit year. For each employee with enrolled
22 family members, the employer shall contribute an additional 80
23 percent of the weighted average of the additional premiums
24 required for enrollment of those family members, during the benefit
25 year to which the formula is applied, in the four basic health benefit
26 plans that had the largest active state civil service enrollment,
27 excluding family members, during the previous benefit year.

28 (2) Beginning January 1, 2006, the employer contribution for
29 each employee shall be an amount equal to 85 percent of the
30 weighted average of the basic health benefit plan premium for an
31 active state civil service employee enrolled for self alone, during
32 the benefit year to which the formula is applied, for the four basic
33 health benefit plans that had the largest active state civil service
34 enrollment, excluding family members, during the previous benefit
35 year. For each employee with enrolled family members, the
36 employer shall contribute an additional 80 percent of the weighted
37 average of the additional premiums required for enrollment of
38 those family members, during the benefit year to which the formula
39 is applied, in the four basic health benefit plans that had the largest

1 active state civil service enrollment, excluding family members,
2 during the previous benefit year.

3 (3) Beginning January 1, 2007, the employer contribution for
4 each employee shall be an amount equal to 80 percent of the
5 weighted average of the basic health benefit plan premium for an
6 active state civil service employee enrolled for self alone, during
7 the benefit year to which the formula is applied, for the four basic
8 health benefit plans that had the largest active state civil service
9 enrollment, excluding family members, during the previous benefit
10 year. For each employee with enrolled family members, the
11 employer shall contribute an additional 80 percent of the weighted
12 average of the additional premiums required for enrollment of
13 those family members, during the benefit year to which the formula
14 is applied, in the four basic health benefit plans that had the largest
15 active state civil service enrollment, excluding family members,
16 during the previous benefit year.

17 (c) The employer contribution provided under this section is
18 not applicable unless and until the effective date of the employee's
19 enrollment in an approved health benefit plan.

20 (d) If the provisions of this section are in conflict with the
21 provisions of a memorandum of understanding reached pursuant
22 to Section 3517.5 or Chapter 12 (commencing with Section 3560)
23 of Division 4 of Title 1, the memorandum of understanding shall
24 be controlling without further legislative action, except that if those
25 provisions require the expenditure of funds, the provisions may
26 not become effective unless approved by the Legislature.

27 SEC. 10. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

31 In order for the provisions of this act to be applicable as soon as
32 possible in the 2013–14 fiscal year and thereby facilitate the orderly
33 administration of state government at the earliest possible time, it
34 is necessary for this act to take effect immediately.